



Report Regarding Removal of Trees Parcels 12 & 13



Introduction

Removal of Trees on November 21-22, 2015

- Background
- Timeline
- Mistakes/Lessons Learned
- Recommendations
- Next Steps



LOCATION

Ownership

Beverly Hills Land Co.

Size

5 Acres of Vacant Land

DLE

GHT

IGNAL

NOTED)

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

30'

ALPINE DRIVE
(DEDICATED PUBLIC STREET)

CIVIC CENTER DRIVE
(DEDICATED PUBLIC STREET)

SANTA

MONICA
(DEDICATED PUBLIC STREET)

BOULEVARD

FOOTHILL ROAD

N50°28'

394.00'

AC PAVEMENT

N50°28'38"E

PARCEL 1 (PARCEL 12)

N50°28'33"E

PARKING METERS IN THIS AREA ARE LOCATED ON THE PROPERTY LINE

CURB SIDE PARKING

AC PAVEMENT

CONCRETE

1270.85'

CIVIC

CENTER

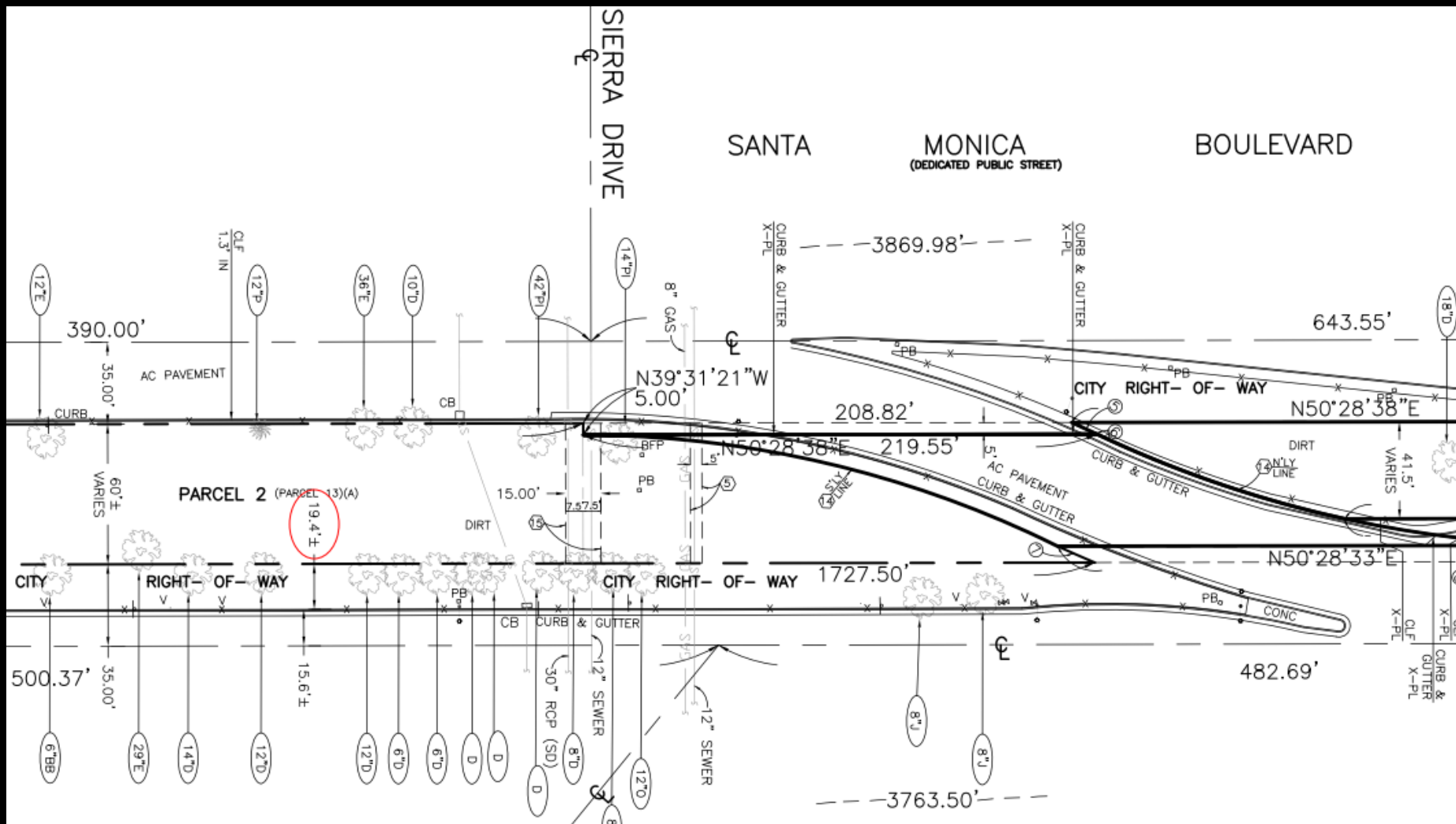
DRIVE

(DEDICATED PUBLIC STREET)

4

S89°50'03"W

12.48'





History of Contamination

- ✓ Arsenic is a naturally occurring element that is toxic in high concentrations
- ✓ Property contaminated by prior railroad operations
- ✓ Department of Toxic Substance Control (DTSC) oversees clean-up of sites
- ✓ Union Pacific responsible for cleanup of contamination
- ✓ No final cleanup plan has been approved by DTSC

32 Ge Germanium 72.64 [Ar]3d ¹⁰ 4s ² 4p ²	33 As Arsenic 74.92160 [Ar]3d ¹⁰ 4s ² 4p ³	34 Se Selenium 78.96 [Ar]3d ¹⁰ 4s ² 4p ⁴
50 Sn Tin 118.710 [Kr]4d ¹⁰ 5s ² 5p ²	51 Sb Antimony 121.757 [Kr]4d ¹⁰ 5s ² 5p ³	52 Te Tellurium 127.60 [Kr]4d ¹⁰ 5s ² 5p ⁴



State Laws Regarding Ownership of Trees

- *Civil Code Section 833* - “Trees whose trunks stand wholly upon the land of one owner belong exclusively to him, although their roots grow into the land of another.”
- *Civil Code Section 834* - “Trees whose trunks stand partly on the land of two or more coterminous owners, belong to them in common.”



Timeline

- 1926: Union Pacific's predecessor operates railway on Parcels
- 1998: Union Pacific sells Parcels to BHLC
- 2004: Union Pacific enters into voluntary clean-up agreement with DTSC
- '06-'07: Environmental investigations conducted
- 2011: City and BHLC approve covenant and agreement regarding maintenance of Parcels
- 2014: Ownership of BHLC is transferred to current owner
- 2015: Union Pacific submits draft Remedial Action Workplan (RAW) to DTSC
- 2015: DTSC holds public meetings regarding draft RAW



Timeline

- April 10: Tree Falls from North side of Parcel 13 and hits vehicle traveling east on Santa Monica Blvd.
- August 22: Beverly Hills Land Co. Hires Ashley Consulting Arborists to prepare report about trees on property.
- Sept. 26: Second Tree Falls from south side of Parcel 13.
- October 2: City Arborist receives copy of the report.
- October 6-21: City Arborist sends emails to the Director of Community Services regarding the report. City Arborist agrees with the report, in that the Eucalyptus trees and any tree that has a trunk or buttress roots growing in contact with street curb should be removed.
- October 23: Staff meets with Parcels 12 & 13 property owner.
- October 29: City Arborist meets with the property owner and walks the Parcels.



Timeline

- November 5: City emails DTSC about using Parcel 12 for construction staging site and planting new trees on the City right-of-way on south side of Parcel 13.
- November 9: City sends DTSC a diagram of proposed locations for new trees.
- November 18: DTSC advises City that a soils management plan, hazardous material contract and a public notice would be required for planting. City advises property owner of the timeline for planting trees, per DTSC direction. Property owner advises City that they intend to proceed because they have DTSC authorization to remove the trees.
- November 20: Director of Community Services sends the City Manager a memorandum regarding the removal of trees and provides the City Manager with the City Arborist's recommendations.
- Nov. 21 & 22: Property owner removes approximately 96 trees. No removal of stumps or work below grade.



Maintenance Agreement

2010

City Raised Concerns
w/ Owner about
Condition of Property

2011

City & Owner Enter into
Maintenance Agreement

Agreement



City to maintain trees on right-of-way
Owner to maintain public & private
property:

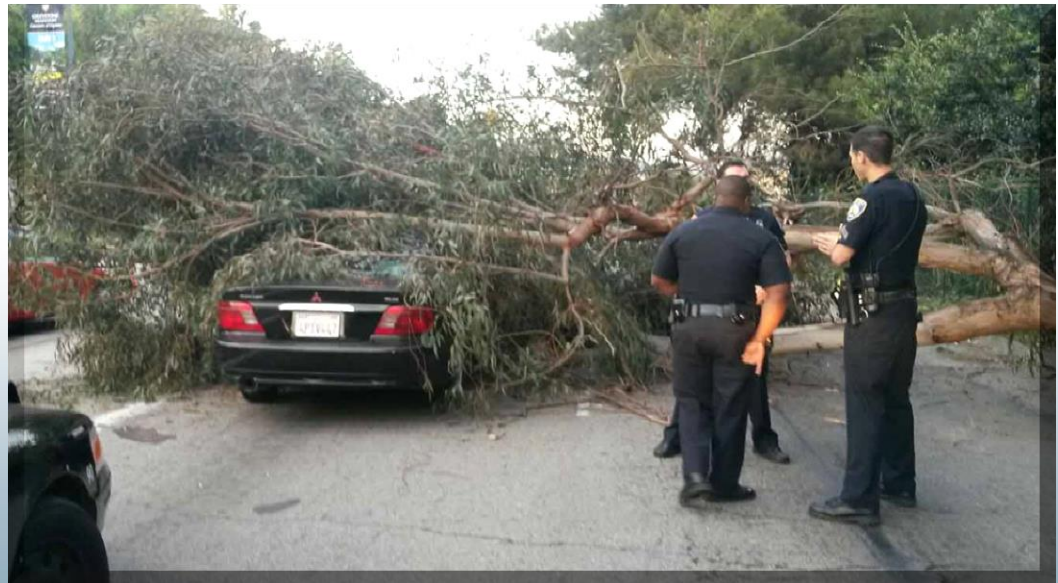
- ✓ Repairing Fence
- ✓ Removing Debris
- ✓ Irrigation

Agreement does not address
maintenance of trees located on
both public and private land



Trees on the Parcels

- ✓ Tree falls on car on Santa Monica Blvd.
- ✓ Owner's arborist report identified trees at risk for falling branches/uprooting
- ✓ City arborist agreed generally with assessment of risk to public safety
 - Informed owner that public process needed before trees on right-of-way could be removed
 - Specified as few trees as possible should be removed
 - Must minimize loss of greenery and keep noise barrier





November 21 and 22



- ✓ Approx. 96 trees on north sides of Parcels 12 & 13 were removed by owner of property.
- ✓ About half the trees removed were located partially on City right-of-way.
- ✓ The other half were solely on private property.



November 21 and 22

- ✓ Work was done to leave soil intact (no stump removal or grinding).
- ✓ Water truck located nearby (per owner)
- ✓ Majority of work on Parcel 12 directly north of Farmers' Market was performed on Sat. Nov. 21. On Sunday Nov. 22nd, additional work occurred on Parcel 12 and on Parcel 13.



Permits

- After-hours permit and right-of-way permit for lane closures were required for work on Nov. 21 and 22; these permits were not obtained. No other permits were needed.
- West Coast Arborists (WCA), also the City's tree maintenance contractor, was hired by owner to do the tree cutting. WCA erroneously thought the permit process in their City contract would apply when doing non-City work.



Permits

- The City sent WCA letter of reprimand.
- Tree removal permit only is needed for trees located on single-family residential properties.
- These Parcels are located in the Transportation (T-1) Zone.



Subsequent Actions

- City Manager directed staff to:
 - Ensure current health and safety
 - Review what happened
 - Analyze mistakes
 - Make recommendations
- DTSC issued 'cease and desist' order on Nov. 25th
- Dec. 3rd DTSC advised City no additional actions needed but then directed landowner to fence property and spray with sealant



Subsequent Actions

- As a precaution, some Farmers' Market vendors were relocated for two weeks.
- Fences repaired and installed by owner and by City.
- Streets cleaned.
- Soil binder applied on December 4th/5th.
- All work done after November 22nd was with City permits and DTSC approval.



Soil and Air Testing

- City commissioned soil and air testing:
- Rincon Consulting took 28 soil samples adjacent to and on the Parcels Dec. 4th and 5th.
 - Off-site samples show only naturally occurring levels of arsenic
 - Onsite samples show higher levels of arsenic, as expected
- PCR Environmental Services took air and surface samples near Parcels on Dec. 5th, 6th, 7th
 - No arsenic is detected in air or on nearby surfaces





Mistakes Made & Lessons Learned

- Key staff were unaware of location of City street rights-of-way and trees partially owned by City on north side of Parcels.
- There was no written communication between the City, DTSC and owner on proper procedure for removing trees.
- Inadequate communication among City departments
- The City's permit process for lane closure and after-hours work was not followed.
- Information was given to the public before it was verified.



Recommendations

- Improve communication among departments
- Online tracking of tree locations and ownership
- One staff member designated as point person for issues involving Parcels
- Information released must be verified by point person
- City to obtain written confirmation from DTSC for approval of work on the Parcels (Done)
- West Coast Arborists to be notified they need permits for non-City work in Beverly Hills (Done)



Next Steps

- Implement lessons learned
- Consider requiring replacement of trees and bushes that were removed from Santa Monica Blvd. right-of-way and timing of replacement
- Removal and replacement of remaining hazardous trees on Parcel 13
- Invoice BHLC for City expenses
- Amend maintenance agreement to address co-owned trees



Questions from City Council

Questions?